

## **Excerpts From Miscellaneous Order No. 6**

### **Rule 1**

#### **Powers and Duties of Magistrates under 28 U.S.C. § 636(a)**

All United States magistrates serving within the territorial jurisdiction of the Northern District of Texas shall have the power and duty to:

- (a) Process criminal complaints and issue appropriate warrants or summons.
- (b) Issue search warrants.
- (c) Conduct initial appearances.
- (d) Impose conditions of release and admit persons to bail.
- ...
- (p) Upon the consent of the defendant, conduct trial of persons accused of, and sentence persons convicted of misdemeanor offenses, including petty offenses (a misdemeanor, the penalty for which does not exceed imprisonment for a period of six months or a fine of not more than \$500.00, or both) pursuant to 18 U.S.C. 3401. . .

### **Rule 2**

#### **Additional Powers and Duties of Magistrates under 28 U.S.C. § 636(b)**

Upon entry of an order of reference by a District Judge, or when required to do so under the provisions of a local rule or general order of this Court, a magistrate may perform any of the following additional duties,. . .

##### **(a) Criminal Proceedings.**

- (1) General supervision of the criminal calendar, including calendar calls and motions to expedite or postpone the trial of the case.
- (2) Conduct of post indictment and post information arraignments, acceptance of not guilty pleas, and the ordering of a presentence report on a defendant who signifies the desire to plead guilty.
- (3) Conduct of pretrial conferences, omnibus hearings, and related proceedings.

##### **(b) Prisoner Petitions**

- (1) Review of petitions of state prisoners seeking post conviction relief from state custody under 28 U.S.C. 2254 and other petitions of state prisoners seeking to attack the fact or duration of their state confinement....

- (2) Review of motions of federal prisoners for vacation of sentence under 28 U.S.C. 2255, and review of other petitions of federal prisoners for relief from custody. . .
- (3) The review of civil suits by prisoners for deprivation of civil rights arising out of conditions of confinement under 42 U.S.C. 1983 and related statutes...

**(c) Civil Proceedings.**

- (1) General supervision of the civil calendar, including the handling of calendar calls and motions to expedite or postpone the trial of cases.
- (2) Conduct of preliminary and final pretrial conferences, status calls and settlement conferences, and the formulation of preparation of pretrial orders.
- (3) Hearing and determining pretrial procedural and discovery motions and any other motion or pretrial matter which is not specifically enumerated as an exception to 28 U.S.C. 636(b)(1)(A).
- (4) The review of motions:
  - (A) for injunctive relief,
  - (B) to dismiss for failure to state a claim upon which relief may be granted,
  - (C) to involuntarily dismiss an action,
  - (D) to vacate or set aside default judgments,
  - (E) to dismiss or permit the maintenance of a class action,
  - (F) for judgment on the pleadings, or
  - (G) for summary judgment

including the conduct of all necessary evidentiary and other hearings or oral arguments thereon, and the submission of reports and recommendations to the District Judge assigned to the case.

- (5) All the duties of a District Judge prescribed by Fed. R. Civ. P. 16.

**(d) Special Master References.**

- (1) Serving as a special master in accordance with Rule 53, Federal Rules of Civil Procedure: hearing testimony and submitting a report and findings on complicated issues in jury cases or in matters of account, difficult computation of damages and exceptional conditions in nonjury cases.
- ...
- (3) Serving as a special master in any matter with the consent of the parties.
- ...
- (5) Conducting evidentiary hearings and preparing findings in employment discrimination cases under Title VII of the Civil Rights Act of 1964 whenever a judge has not scheduled a case for trial within 120 days after issue has been joined and upon reference to the magistrate by a District Judge.

**(e) Administrative Proceedings.**

- (1) Reviewing the record of administrative proceedings in suits for judicial review of final decisions of administrative agencies and submitting to the district judge to whom the case is assigned a report and recommendations as to (a) whether there are any defects in the agency proceedings which rise to the level of a deprivation of due process or a violation of a statute or regulations, (b) whether there should be a remand to the agency for additional factual determinations to complete the record, and (c) whether there is substantial evidence in the record to support the ultimate decision of the agency.

**(f) Miscellaneous Duties.**

- ...
- (8) Administer the Court's Criminal Justice Act Plan, including maintenance of a list of eligible attorneys, appoint attorneys and approve vouchers for compensation and expenses.
  - (9) Any other duties assigned by the Court, or any Judge thereof, which are not inconsistent with the Constitution and laws of the United States.

**Rule 3**

**Conduct of Trials and Dispositions of Civil Cases Upon  
Consent of the Parties -- 28 U.S.C. § 636(c)**

Upon the consent of the parties and the approval and referral of the district judge to whom the case is assigned, a full-time magistrate. . . may conduct any or all proceedings in any civil case which is filed in this court, *including the conduct of a jury or nonjury trial*, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings a magistrate may hear and determine any and all pretrial and post-trial motions which are filed by the parties, including case-dispositive motions.

**(a) In general**

In the course of conducting proceedings in accordance with 28 U.S.C. 636(c) a magistrate shall conform to all applicable provisions of federal statutes and rules, and to the general procedural rules of this court.

**(b) Special provisions for the disposition of cases**

- (1) Notice.

The clerk of court shall notify the parties in all civil cases that they may consent to a magistrate conduct any or all proceedings in the case and order the entry of final judgment. . .

...

## **Rule 4**

### **Review of Magistrate Judge Orders and Recommendations and Appeals to District Judge of Civil Cases Tried by Consent.**

**(a) Nondispositive Matters.**

Review of an order entered by a magistrate judge in a pretrial matter not dispositive of a claim or defense of a party shall be governed by Fed. R. Civ. P. 72(a). The district judge to whom the case is assigned may prescribe supplemental procedures for considering timely objections.

**(b) Dispositive Motions and Prisoner Petitions.**

A magistrate judge assigned without consent of the parties to hear a pretrial matter dispositive of a claim or defense of a party or a prisoner petition challenging the conditions of confinement shall enter a recommendation in accordance with Fed. R. Civ. P. 72(b). A party objecting to the recommended disposition, and a party who desires to respond to another party's objections, shall comply with Fed. R. Civ. P. 72(b). The district judge to whom the case is assigned may prescribe supplemental procedures for considering timely objections.

**(c) Special Master Reports.**

Objections to a magistrate judge report filed pursuant to Fed. R. Civ. P. 53(e)(2) shall be filed in accordance with that Rule. The district judge to whom the case is assigned may prescribe supplemental procedures for considering timely objections.